

DATE: April 29, 2013
STAFF: Rick Richter
Karen Cumbo

AGENDA ITEM SUMMARY
FORT COLLINS CITY COUNCIL

4

SUBJECT

First Reading of Ordinance No. 068, 2013, Authorizing the Conveyance of a Non-Exclusive Utility Easement to Public Service Company of Colorado.

EXECUTIVE SUMMARY

This Ordinance conveys a Non-Exclusive Utility Easement to Public Service Company of Colorado ("PSCo").

The City of Fort Collins staff worked with PSCo over the past several months to determine the alignment of and mitigate the impacts for a new 16-inch high pressure gas transmission line within city limits. The project is designed and construction is expected to start in May 2013. Most of the City issues were addressed, and City Council approved easements in Natural Areas and adopted Resolution 2013-022 on March 19, 2013, directing the use of the payments from PSCo be used for natural areas and trails.

There was continuing concern, however, about the proposed location of the pipeline in private property at the northwest corner of Harmony Road and Shields Street. Although this was primarily an issue of concern between the property owner and PSCo, the City expressed concern over the impacts on future commercial development at the site. At its March 19 meeting, City Council directed the City Manager to follow up with PSCo on this issue. Following several conversations with senior PSCo executives and project staff, they agreed in principle to relocate the pipeline within the Shields Street right-of-way if the City agreed to pay for any relocation of the approximately 2,000 feet of line adjacent to the property that may be necessary in the next fifteen years.

This is a low-risk option, given the location of the pipeline in the Shields Street right of way. PSCo is redesigning the pipeline within the Shields Street right-of way. In order to document this agreement between the City and PSCo, staff recommends a Non-Exclusive Pipeline Easement within the Shields Street right-of-way.

BACKGROUND / DISCUSSION

Public Service Company of Colorado (PSCo), an Xcel Energy company, is requesting easements within the Shields Street right-of-way to construct, operate, and maintain a high pressure gas pipeline. The proposed project is part of the larger West Main Natural Gas Pipeline Replacement Project (West Main Project) that encompasses Larimer, Weld, and Boulder Counties. The project will replace an existing eight-inch gas pipeline that is 83 years old and at the end of service life, with a 16-inch high pressure gas pipeline. The proposed project will traverse the city north to south and will impact the road surface and traffic along Shields Street, Horsetooth Road, McClelland Drive, Drake Road, and Timberline Road.

PSCo is authorized in Section 6 of the City Code to construct, operate and maintain gas facilities within the public right-of-way. Much of this project's pipeline will be located in the right-of-way. PSCo company policy encourages the use of undeveloped property if it is available, so they designed the line to veer west across Shields and into private property at the northwest corner of Harmony and Shields. The owners of that property strongly objected and PSCo initiated eminent domain action to acquire an easement on the property. This action is primarily between PSCo and the property owners, but the City has an interest in the implementation of its Structure Plan, and the expected commercial development of the property.

At the City's request, PSCo agreed to amend the design to move the line away from the private property and into the right-of-way in this 2,000-foot stretch. However, PSCo asked that the City guarantee they will not have to relocate the line for fifteen years, with an extension of five years if the private property is not yet developed. This is an extremely low-risk possibility because of the location and depth of the line. That is the intent of this easement.

FINANCIAL / ECONOMIC IMPACTS

The approval of the easement will eliminate the impacts of the gas transmission line on future commercial development at the site on the northwest corner of Harmony Road and Shields Street (designated as a neighborhood

shopping center). If the City requires the pipeline within the easement to be relocated within 15 years of installation, the relocation would be at the City's expense.

ENVIRONMENTAL IMPACTS

The proposed re-alignment for the project will avoid impacts to the private property and place the pipeline in the public right-of-way.

STAFF RECOMMENDATION

Staff recommends adoption of this Ordinance on First Reading.

PUBLIC OUTREACH

Three open houses were held in Larimer County to share the overall plan with the public. A total of 3,409 property owners within 750 feet of the preferred and alternate pipeline routes within Fort Collins were notified of the meetings.

Open houses were held as follows:

- February 29, 2012 at the Walt Clark Middle School in Loveland from 4 to 7 pm.
- March 8, 2012 at the Fort Collins Marriott in Fort Collins from 4 to 7 pm.
- October 25, 2012 at the Lincoln Center in Fort Collins from 4 to 7 pm.

In addition, a West Main project website (www.xcelenergywestmainpipeline.com) was created to provide updated information on the project and related open houses.

ATTACHMENTS

1. Location Map

Location Map of Utility Easement to Public Service Company



 Easement Location



ORDINANCE NO. 068, 2013
OF THE COUNCIL OF THE CITY OF FORT COLLINS
AUTHORIZING THE CONVEYANCE OF
A NON-EXCLUSIVE UTILITY EASEMENT IN A PORTION OF
SOUTH SHIELDS STREET TO
PUBLIC SERVICE COMPANY OF COLORADO

WHEREAS, the City is the owner of the current Shields Street right-of-way lying within the southwest quarter of Section 34 and the southeast quarter of Section 35, Township 6 North, Range 69 West of the 6th Principal Meridian, County of Larimer, State of Colorado, between Harmony Road and a point 548 feet north, more or less, of the intersection between Troutman Parkway and Shields Street (the "City Property"); and

WHEREAS, Public Service Company of Colorado, ("PSCo") has requested a non-exclusive utility easement (the "Easement") on a portion of the City Property for the benefit of its West Main High Pressure Natural Gas Line Replacement Project (the "Project"); and

WHEREAS, the portion of the Project for which the Easement is needed consists of the installation of a new underground natural gas pipeline in a segment of the line running from Loveland north through Fort Collins to Vine Drive as part of a larger system encompassing Larimer, Weld and Boulder counties; and

WHEREAS, the proposed non-exclusive utility easement would be 50 feet wide, contain 2.99 acres, and run within the right-of-way for South Shields Street as shown and described on Exhibits "A-1" and "A-2", attached and incorporated herein by reference (the "Pipeline Easement"); and

WHEREAS, PSCo would be required to obtain excavation permits and other administrative approvals normally associated with work within a City right-of-way, and would also be required to restore any impacts to the City Property from the Project; and

WHEREAS, the location of the natural gas pipeline in the location described will eliminate undesirable barriers to the implementation of City Plan on adjoining property, and as well as undesirable alignment of the pipeline in the street that would result from the originally planned location of the pipeline; and

WHEREAS, because PSCo has modified Project plans at the request of the City in light of the City's preferred location for the pipeline, City staff recommends that no compensation be required for the Easement; and

WHEREAS, the Easement is for the limited term of fifteen years, after which the natural gas pipeline would be governed by all requirements and limitations applicable to utility lines, and particularly natural gas pipelines, in City rights-of-way; and

WHEREAS, City staff recommends that the City Council authorize the granting of the Easement as described in this Ordinance; and

WHEREAS, Section 23-111(a) of the City Code provides that the City Council is authorized to sell, convey, or otherwise dispose of any and all interests in real property owned in the name of the City, provided that the City Council first finds, by ordinance, that such sale or other disposition is in the best interests of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF FORT COLLINS as follows:

Section 1. That the City Council hereby finds that the City's conveyance to PSCo of the Easement on the City Property as provided herein is in the best interests of the City.

Section 2. That the Mayor is hereby authorized to execute such documents as are necessary to convey the Easement to PSCo on terms and conditions consistent with this Ordinance, together with such additional terms and conditions as the City Manager, in consultation with the City Attorney, determines are necessary or appropriate to protect the interests of the City, including, but not limited to, any necessary changes to the legal descriptions of the Easements, as long as such changes do not materially increase the size or change the character of the Easements.

Introduced, considered favorably on first reading, and ordered published this 29th day of April, A.D. 2013, and to be presented for final passage on the 7th day of May, A.D. 2013.

Mayor

ATTEST:

City Clerk

Passed and adopted on final reading on the 7th day of May, A.D. 2013.

Mayor

ATTEST:

City Clerk

**DESCRIPTION OF A PIPELINE EASEMENT TO BE CONVEYED
FROM THE CITY OF FORT COLLINS TO PUBLIC SERVICE COMPANY OF COLORADO**

A TRACT OF LAND LOCATED IN THE SOUTHWEST QUARTER OF SECTION 35, TOWNSHIP 7 NORTH, RANGE 69 WEST OF THE SIXTH P.M.; CITY OF FORT COLLINS, COUNTY OF LARIMER, STATE OF COLORADO; BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

A PORTION OF THE RIGHT OF WAY FOR SHIELDS STREET, BEING BOUNDED ON THE SOUTH BY A LINE FIFTY FEET NORTH OF AND PARALLEL TO THE SOUTH LINE OF THE SOUTHWEST QUARTER OF SECTION 35; BEING BOUNDED ON THE WEST BY THE WEST LINE OF THE SOUTHWEST QUARTER OF SECTION 35; BEING BOUNDED ON THE NORTH BY THE NORTH LINE OF THE SOUTHWEST QUARTER OF SECTION 35; AND BEING BOUNDED ON THE EAST BY THE EAST RIGHT OF WAY LINE OF SHIELDS STREET AS SHOWN ON THE PLATS OF WOODLANDS P.U.D.- FILING ONE AND WILLOW PARK SUBDIVISION.

CONTAINING 130,237 SQUARE FEET (2.99 ACRES), MORE OR LESS.

I HEREBY STATE THAT THE ABOVE DESCRIPTION WAS PREPARED BY ME AND IS TRUE AND CORRECT TO THE BEST OF MY PROFESSIONAL KNOWLEDGE, BELIEF, AND OPINION.

JOHN STEVEN VON NIEDA, COLORADO P.L.S. 31169
FOR AND ON BEHALF OF THE CITY OF FORT COLLINS
P.O. BOX 580, FORT COLLINS, CO 80522

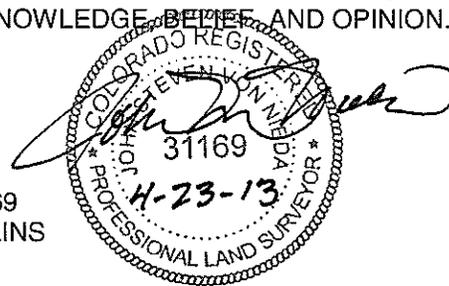
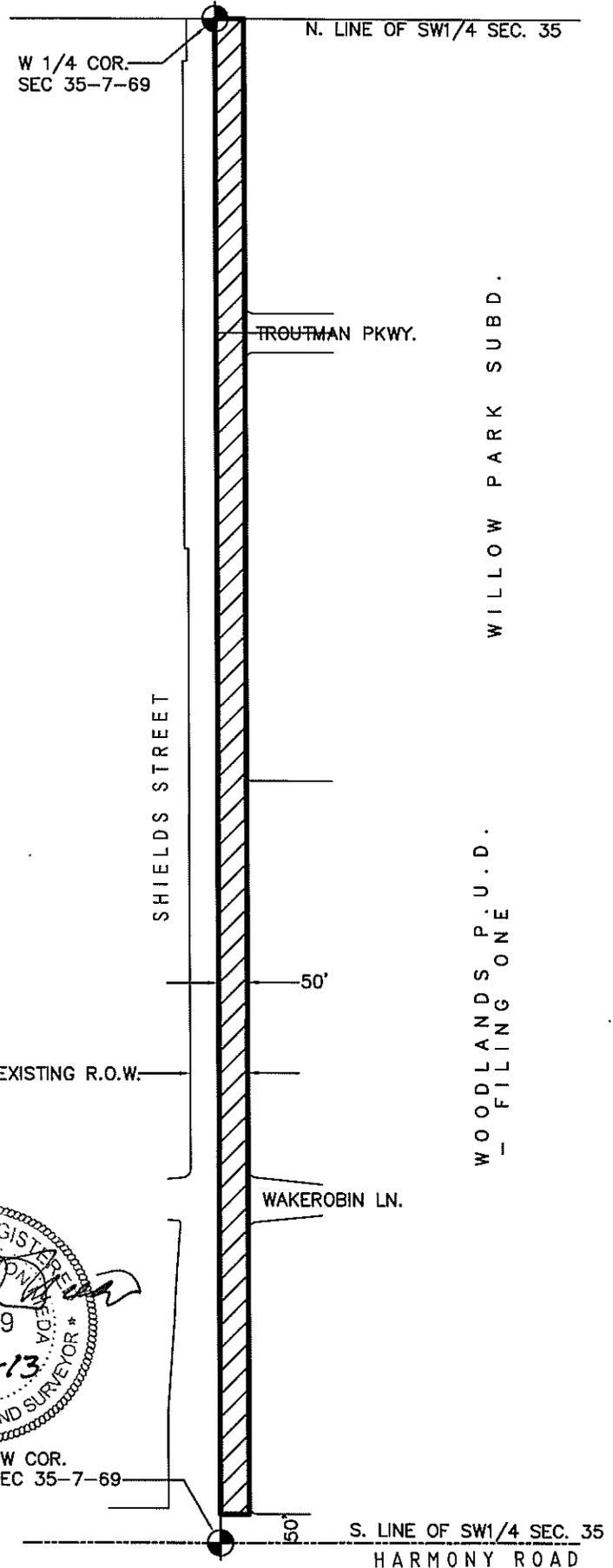


EXHIBIT OF
A PIPELINE EASEMENT TO BE CONVEYED
FROM THE CITY OF FORT COLLINS TO PUBLIC SERVICE COMPANY OF COLORADO



APRIL 22, 2013
1"=300'

THIS EXHIBIT'S SOLE INTENT IS TO GRAPHICALLY REPRESENT AND AUGMENT THE ATTACHED PROPERTY DESCRIPTION. IT DOES NOT REPRESENT A MONUMENTED LAND SURVEY AS DEFINED IN C.R.S. 38-51-102. IN THE EVENT OF DISCREPANCIES BETWEEN THIS EXHIBIT AND THE ATTACHED PROPERTY DESCRIPTION, THE INFORMATION CONTAINED WITHIN THE ATTACHED PROPERTY DESCRIPTION SHOULD BE RELIED UPON.



SW COR.
SEC 35-7-69

S. LINE OF SW1/4 SEC. 35
HARMONY ROAD

WILLOW PARK SUBD.
WOODLANDS P.U.D.
- FILING ONE